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OFFICE OF PETITIONS

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET
SUITE 4000
CHARLOTTE NC 28280-4000

In re Application of :
Eric K. Mangiardi et al. :
Application No. 10/674,972 :
Filed: September 30, 2003 : DECISION ON PETITION
Attorney Docket No. : UNDER 37 C.F.R. § 1.181(A)
047956/288225 :
Title: REMOVABLE BILIARY STENT :

This is a decision on the petition pursuant to 37 C.F.R.
§ 1.181(a) to withdraw the holding of abandonment, filed on July
9, 2008.

BACKGROUND

The above-identified application became abandoned for failure to file a proper response to the Restriction Requirement, mailed December 26, 2006, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on January 27, 2007. A Notice of abandonment was mailed on July 11, 2007.

With the present petition, Petitioner has alleged that the mailing was mailed to the incorrect address.

The electronic file has been reviewed, and it is clear that a change of address was received on March 3, 2005, which changed the address of record to the law firm of Alston & Bird, but the above-mentioned communication was not entered. Consequently,

the notice was mailed to the Assignee, the address of record at the time.

The Change of Correspondence Address received on March 3, 2005 has been entered and made of record.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the Office communication was not received.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will re-mail the Restriction Requirement, mailed December 26, 2006, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.¹ All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanowski/
Paul Shanowski
Senior Attorney
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).